

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Michael Krichevsky

Case No. 22-71045-AST

Chapter 11

Debtor.

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ORDER DISMISSING CHAPTER 11 CASE AND
SETTING HEARING TO CONSIDER PREJUDICIAL DISMISSAL

WHEREAS, on December 8, 2021, Select Portfolio Servicing, Inc. as servicer for U.S. Bank NA, successor trustee to Bank of America, NA, successor in interest to LaSalle Bank NA, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates, Series 2005-AR15 (“SPS”) filed a Motion to Dismiss, which was amended on December 16, 2021 (the “SPS MTD”) [Dkt. Items 249, 251] seeking an order dismissing the instant bankruptcy pursuant to Section 1112(b) of the Bankruptcy Code; and

WHEREAS, on March 8, 2022, Wells Fargo Bank, N.A. (“Wells Fargo”), as Servicing Agent for U.S. Bank National Association, as Trustee for Banc of America Funding Corporation Mortgage Pass-Through Certificates, Series 2006-F and the Bank Defendants (as defined therein) filed their motion to join the SPS MTD (the “WF MTD”) [Dkt. Item 257] seeking an order dismissing the instant bankruptcy pursuant to Section 1112(b) of the Bankruptcy Code; and

WHEREAS, on June 30, 2022, the United States Trustee (the “UST”) filed a Motion to Convert or Dismiss (the “UST MTD”) [Dkt. Items 295, 296] seeking an order converting the instant bankruptcy to Chapter 11, or in the alternative dismissing the instant bankruptcy case, pursuant to Section 1112(b) of the Bankruptcy Code; and

WHEREAS, on July 28, 2022, the Court held a hearing (the “Hearing”) on, among other things, the SPS MTD, the WF MTD and the UST MTD (the “Motions”) at which the UST, SPS,

Wells Fargo and the Bank Defendants appeared through their respective counsel of record and were heard on the Motions; and

WHEREAS, Michael Krichevsky, (the “Debtor”) failed to appear at the Hearing; and

WHEREAS, exhibits were admitted, oral argument took place at the Hearing, and all parties were given an opportunity to be heard and all timely submissions considered; and

NOW THEREFORE, after due deliberation and for the reasons stated on the record at the Hearing, it is hereby

ORDERED, that the Motions are granted; and it is further

ORDERED, that pursuant to Section 1112(b)(4)(A), (E), (F), and (K) cause exists to convert or dismiss the instant bankruptcy proceeding; and it is further

ORDERED, that for the reasons stated on the record at the Hearing, dismissal of the instant bankruptcy proceeding is in the best interest of creditors; and it is further


ORDERED, that the instant bankruptcy proceeding is hereby dismissed pursuant to Section 1112(b); and it is further

ORDERED, that the Court directs that the above-captioned bankruptcy case be held open by the Clerk’s Office to hear the balance of the Contempt Motions [Dkt. Items 310, 315, 316, 318] currently scheduled for **August 30, 2022 at 10:00 a.m.**, at which Debtor shall appear and show cause why this case should not be dismissed with prejudice for a period of up to two (2) years as a contempt sanction; and it is further

ORDERED, that the Bankruptcy Court reserves jurisdiction to rule on the balance of the Contempt Motions, including the possibility of dismissing the above-captioned bankruptcy case with prejudice.

Dated: August 8, 2022
Central Islip, New York





Alan S. Trust
Chief United States Bankruptcy Judge